

Fiscal Impact Statement for Initiative 940B

FISCAL IMPACT

Initiative 940B requires all certified peace officers in the state to receive violence de-escalation and mental health training, as developed by the Criminal Justice Training Commission. There will be costs for the state to develop the training and costs for state and local government certified peace officers to take the training. The initiative also allows peace officers to be reimbursed if charged with a crime for using deadly force and found not guilty. It also requires tribes to be notified when there is a death of a federally recognized tribal member. The fiscal impacts cannot be determined at this time.

GENERAL ASSUMPTIONS

- The effective date of the initiative is Dec. 6, 2018.
- The provisions of the initiative apply prospectively, not retroactively.
- Estimates use the state's fiscal year of July 1 through June 30. Fiscal year 2019 is July 1, 2018, to June 30, 2019.

REVENUE

State revenue impacts

This initiative would have an indeterminate state revenue impact. While the entity providing the training may charge a reasonable fee, the initiative does not specify whether local governments or the state should pay for the training. Although the Criminal Justice Training Commission may charge a fee if it provides the training, the fee has not been determined.

Local revenue impacts

Local governments may charge a fee for providing the training, which cannot be estimated at this time.

EXPENDITURES

State government expenditures

The initiative would have an indeterminate state expenditure impact. The Criminal Justice Training Commission would consult with law enforcement agencies and community stakeholders to adopt rules for carrying out the initiative's training requirements. The initiative identifies specific groups the Commission must seek input from before adopting rules to carry out the measure's objectives. Because the Commission would already be conducting stakeholder groups, it is assumed that specifying these entities would not have an additional fiscal impact.

The Commission estimates each certified peace officer would require at least 40 hours of additional training to meet the requirements. The stakeholder advisory group may recommend more hours of training, but for the purposes of this analysis, 40 hours of initial training and two hours of refresher

training each year thereafter are assumed. According to the Washington Association of Sheriffs and Police Chiefs' publication 2017 Full Time Law Enforcement Employees Data, the Commission may have to train more than 10,000 certified peace officers. This number includes state and local certified peace officers, but excludes tribal police officers.

The initiative would allow the Commission, private parties or law enforcement agencies to provide training. The cost of the training is indeterminate because it is unknown who would provide the training; however, the expenditure impacts above assume the Commission would provide the initial training and refresher training spread out over multiple years to all current certified peace officers.

To meet training requirements, the Commission would need to hire a curriculum developer for the initial training and the refresher training. It would also require a program manager, administrative support staff, special skills instructors, firearm simulators, facility costs and other equipment. Ongoing annual costs for the initial training and the two-hour refresher training would be the same as the first year, but would include online training. The Commission assumes providing initial training to more than 1,300 certified peace officers a year. The Commission estimates the first-year costs at \$1.26 million and ongoing annual costs at \$900,000.

Initiative 940B requires an independent investigation to be completed when substantial bodily harm, great bodily harm or death resulted from a certified peace officer who used deadly force. The Commission would adopt rules establishing criteria to determine what qualifies as an independent investigation. The Commission doesn't anticipate any additional costs associated with this rule making.

Required notices by the Governor's Office of Indian Affairs

If a certified peace officer were to use force that causes the death of a federally recognized Indian tribal member, the law enforcement agency must submit that person's tribal affiliation to the Governor's Office of Indian Affairs within 24 hours. Indian Affairs must determine how to receive the information, including when sent outside of regular business hours, and immediately notify the affected tribe. Indian Affairs assumes minimal costs by using standard email and telephone communications to meet the requirement.

Wrongful convictions

Initiative 940B would allow a certified peace officer charged with a crime after using deadly force to be reimbursed by the state for loss of time and legal fees if the peace officer is found not guilty or if the case is dismissed. The initiative would also allow the Legislature to provide additional reimbursement beyond the peace officer's fees and costs should it choose to do so. It is unknown how many certified peace officers would be charged, on trial and then found not guilty.

Currently, the Legislature appropriates funds for claims to reimburse criminal defendants acquitted on the basis of self-defense. The majority of these claims, processed by the Department of Enterprise Services, ranged between \$3,000 and \$45,000 in fiscal years 2016 and 2017. The costs for reimbursements that would qualify under Initiative 940B could be higher than the amounts listed

above due to the complexity of these cases. The processing of these new claims by the Department of Enterprise Services would have minimal additional costs to the agency.

State agency costs for taking training

The initiative would have an indeterminate state expenditure impact for those agencies with state certified peace officers taking the training. However, if the Commission were to require an additional 40 hours of training for each state certified peace officer, the expenditure amount could be \$2 million. Annual impacts for the two-hour refresher training could impact state agencies that employ commissioned certified peace officers, up to \$107,000. The expenditure impacts are based on the following assumptions:

- The costs above reflect the backfill or pay overtime to officers who attend training; they don't account for the actual cost of training.
- The state employed 1,585 certified peace officers in 2017.
- The average hourly salary for certified peace officers is \$33.61.
- The subsequent fiscal year assumptions don't include training costs for new hires because it is unknown how many state certified peace officers will be hired by the affected state agencies and when they may start training.

All certified peace officers, as required in the Washington Administrative Code 139-05-300, must receive continuing education and training that includes crisis intervention training. The current training may partially meet the Commission's requirements, which could reduce the expenditure impacts to state agencies. If the Commission requires an extra 40 hours of training, annual costs for state and local law enforcement could be \$900,000 a fiscal year, as reflected in the state expenditure impact for the Commission.

Local government costs for taking training

The initiative would have an indeterminate local expenditure impact. If, for example, the Commission were to require an additional 40 hours of training for each certified peace officer, the cost for training could have an expenditure impact of more than \$12 million. Refresher training, as required by the Commission, may take two hours and could cost local governments \$605,000 per year. This expenditure impact assumes all certified peace officers would be trained in one year. Depending on who conducts the training and how long it takes to complete the training, the \$12 million could be spread over multiple years.

The local government expenditure impact is also based on the following:

- The cost assumptions above reflect the backfill or overtime pay to certified peace officers who attend training; they don't account for the cost of training.
- Local police departments employed more than 9,000 certified peace officers in 2017.
- The average hourly salary for certified peace officers is \$33.61.
- The subsequent fiscal year assumptions don't include training costs for any new hires because it is unknown how many peace officers would be hired by local law enforcement agencies and when they may start training.

All certified peace officers, as required in the Washington Administrative Code 139-05-300, must receive continuing education and training that includes crisis intervention training. The current training may partially meet the Commission's requirements, which could reduce the expenditure impacts to local governments. If the Commission conducts the estimated 40 hours of initial and the two-hour refresher training, the annual costs for training could be \$900,000 a fiscal year. These costs are already reflected in the Commission's expenditure impact above.