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SENATE BILL 5676

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State of Washington

65th Legislature

2017 Regular Session

By Senators Takko, Palumbo, and Hunt

Read first time 02/02/17. Referred to Committee on Law & Justice.

1 AN ACT Relating to public defense fund distributions; amending  
2 RCW 10.101.050, 10.101.060, 10.101.070, and 10.101.080; and adding a  
3 new section to chapter 10.101 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 10.101.050 and 2005 c 157 s 3 are each amended to  
6 read as follows:

7 The Washington state office of public defense shall disburse  
8 appropriated funds to counties and cities for the purpose of  
9 improving the quality of public defense services. Counties may apply  
10 for up to their pro rata share as set forth in RCW 10.101.060 and  
11 section 5 of this act, provided that counties conform to application  
12 procedures established by the office of public defense and improve  
13 the quality of services for both juveniles and adults. Cities may  
14 apply for moneys pursuant to the grant program set forth in RCW  
15 10.101.080 and section 5 of this act. In order to receive funds, each  
16 applying county or city must require that attorneys providing public  
17 defense services attend training approved by the office of public  
18 defense at least once per calendar year. Each applying county or city  
19 shall report the expenditure for all public defense services in the  
20 previous calendar year, as well as case statistics for that year,  
21 including per attorney caseloads, and shall provide a copy of each

1 current public defense contract to the office of public defense with  
2 its application. Each individual or organization that contracts to  
3 perform public defense services for a county or city shall report to  
4 the county or city hours billed for nonpublic defense legal services  
5 in the previous calendar year, including number and types of private  
6 cases.

7 **Sec. 2.** RCW 10.101.060 and 2005 c 157 s 4 are each amended to  
8 read as follows:

9 (1)(a) Subject to the availability of funds appropriated for this  
10 purpose, the office of public defense shall disburse to applying  
11 counties that meet the requirements of RCW 10.101.050 designated  
12 funds under this chapter on a pro rata basis pursuant to the formulas  
13 set forth in RCW 10.101.070 and section 5 of this act and shall  
14 disburse funds to eligible cities(~~(,—funds)~~) pursuant to RCW  
15 10.101.080 and section 5 of this act. Each fiscal year for which it  
16 receives state funds under this chapter, a county or city must  
17 document to the office of public defense that it is meeting the  
18 standards for provision of indigent defense services as endorsed by  
19 the Washington state bar association or that the funds received under  
20 this chapter have been used to make appreciable demonstrable  
21 improvements in the delivery of public defense services, including  
22 the following:

23 (i) Adoption by ordinance of a legal representation plan that  
24 addresses the factors in RCW 10.101.030. The plan must apply to any  
25 contract or agency providing indigent defense services for the county  
26 or city;

27 (ii) Requiring attorneys who provide public defense services to  
28 attend training under RCW 10.101.050;

29 (iii) Requiring attorneys who handle the most serious cases to  
30 meet specified qualifications as set forth in the Washington state  
31 bar association endorsed standards for public defense services or  
32 participate in at least one case consultation per case with office of  
33 public defense resource attorneys who are so qualified. The most  
34 serious cases include all cases of murder in the first or second  
35 degree, persistent offender cases, and class A felonies. This  
36 subsection (1)(a)(iii) does not apply to cities receiving funds under  
37 RCW 10.101.050 through 10.101.080 and section 5 of this act;

38 (iv) Requiring contracts to address the subject of compensation  
39 for extraordinary cases;

1 (v) Identifying funding specifically for the purpose of paying  
2 experts (A) for which public defense attorneys may file ex parte  
3 motions, or (B) which should be specifically designated within a  
4 public defender agency budget;

5 (vi) Identifying funding specifically for the purpose of paying  
6 investigators (A) for which public defense attorneys may file ex  
7 parte motions, and (B) which should be specifically designated within  
8 a public defender agency budget.

9 (b) The cost of providing counsel in cases where there is a  
10 conflict of interest shall not be borne by the attorney or agency who  
11 has the conflict.

12 (2) The office of public defense shall determine eligibility of  
13 counties and cities to receive state funds under this chapter. If a  
14 determination is made that a county or city receiving state funds  
15 under this chapter did not substantially comply with this section,  
16 the office of public defense shall notify the county or city of the  
17 failure to comply and unless the county or city contacts the office  
18 of public defense and substantially corrects the deficiencies within  
19 ninety days after the date of notice, or some other mutually agreed  
20 period of time, the county's or city's eligibility to continue  
21 receiving funds under this chapter is terminated. If an applying  
22 county or city disagrees with the determination of the office of  
23 public defense as to the county's or city's eligibility, the county  
24 or city may file an appeal with the advisory committee of the office  
25 of public defense within thirty days of the eligibility  
26 determination. The decision of the advisory committee is final.

27 **Sec. 3.** RCW 10.101.070 and 2005 c 157 s 5 are each amended to  
28 read as follows:

29 The moneys shall be distributed to each county determined to be  
30 eligible to receive moneys by the office of public defense as  
31 determined under this section. With the exception of funds identified  
32 in section 5 of this act, ninety percent of the funding appropriated  
33 shall be designated as "county moneys\_." ((and)) All county moneys  
34 under this chapter shall be distributed as follows:

35 (1) Six percent of the county moneys appropriated shall be  
36 distributed as a base allocation among the eligible counties. A  
37 county's base allocation shall be equal to this six percent divided  
38 by the total number of eligible counties.

1 (2) Ninety-four percent of the county moneys appropriated shall  
2 be distributed among the eligible counties as follows:

3 (a) Fifty percent of this amount shall be distributed on a pro  
4 rata basis to each eligible county based upon the population of the  
5 county as a percentage of the total population of all eligible  
6 counties; and

7 (b) Fifty percent of this amount shall be distributed on a pro  
8 rata basis to each eligible county based upon the annual number of  
9 criminal cases filed in the county superior court as a percentage of  
10 the total annual number of criminal cases filed in the superior  
11 courts of all eligible counties.

12 (3) Under this section:

13 (a) The population of the county is the most recent number  
14 determined by the office of financial management;

15 (b) The annual number of criminal cases filed in the county  
16 superior court is determined by the most recent annual report of the  
17 courts of Washington, as published by the office of the administrator  
18 for the courts;

19 (c) Distributions and eligibility for distributions in the  
20 2005-2007 biennium shall be based on 2004 figures for the annual  
21 number of criminal cases that are filed as described under (b) of  
22 this subsection. Future distributions shall be based on the most  
23 recent figures for the annual number of criminal cases that are filed  
24 as described under (b) of this subsection.

25 **Sec. 4.** RCW 10.101.080 and 2007 c 59 s 1 are each amended to  
26 read as follows:

27 The moneys under RCW 10.101.050 shall be distributed to each city  
28 determined to be eligible under this section by the office of public  
29 defense. With the exception of funds identified in section 5 of this  
30 act, ten percent of the funding appropriated shall be designated as  
31 "city moneys." ((and)) All city moneys under this chapter shall be  
32 distributed as follows:

33 (1) The office of public defense shall administer a grant program  
34 to select the cities eligible to receive city moneys. Incorporated  
35 cities may apply for grants. Applying cities must conform to the  
36 requirements of RCW 10.101.050 and 10.101.060.

37 (2) City moneys shall be distributed in a timely manner to  
38 accomplish the goals of the grants.

1 (3) Criteria for award of grants shall be established by the  
2 office of public defense after soliciting input from the association  
3 of Washington cities. Award of the grants shall be determined by the  
4 office of public defense.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 10.101  
6 RCW to read as follows:

7 Each fiscal year, nine hundred thousand dollars of the revenue  
8 generated by the 2015 supreme court order to increase the base  
9 traffic infraction fines is for the office of public defense. The  
10 office of public defense shall distribute fifty percent of the funds  
11 appropriated pursuant to this section to counties and fifty percent  
12 of the funds appropriated pursuant to this section to cities,  
13 according to the requirements established in RCW 10.101.070 and  
14 10.101.080.

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