

Consolidated Fiscal Note

2021-2022 Legislative Session

HF440 - 0 - Peace Officer Professional Liability Insurance Req

Chief Author: **Athena Hollins**
 Committee: **Public Safety and Criminal Justice Reform Finance and Policy**
 Date Completed: **2/15/2021 1:18:54 PM**
 Lead Agency: **Peace Officers Board (POST)**
 Other Agencies:
 Public Safety Dept

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Public Safety Dept						
General Fund	-	1,791	1,791	1,791	1,791	1,791
Trunk Highway	-	9,435	9,435	9,435	9,435	9,435
Highway Users Tax Distribution	-	99	99	99	99	99
State Total						
General Fund	-	1,791	1,791	1,791	1,791	1,791
Trunk Highway	-	9,435	9,435	9,435	9,435	9,435
Highway Users Tax Distribution	-	99	99	99	99	99
Total	-	11,325	11,325	11,325	11,325	11,325
Biennial Total			22,650			22,650

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Public Safety Dept					
General Fund	-	-	-	-	-
Trunk Highway	-	-	-	-	-
Highway Users Tax Distribution	-	-	-	-	-
Total	-	-	-	-	-

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Maren Bardal **Date:** 2/15/2021 1:18:54 PM
Phone: 651-284-6429 **Email:** maren.bardal@lbo.leg.mn

NOTE: This is an earlier version of the fiscal note for SF694-0.

The most current version is available on the Fiscal Note Search site: <https://mn.gov/mmbapps/fnsearchlbo/>

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Public Safety Dept						
General Fund	-	1,791	1,791	1,791	1,791	1,791
Trunk Highway	-	9,435	9,435	9,435	9,435	9,435
Highway Users Tax Distribution	-	99	99	99	99	99
Total	-	11,325	11,325	11,325	11,325	11,325
		Biennial Total	22,650		22,650	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Public Safety Dept						
General Fund	-	1,791	1,791	1,791	1,791	1,791
Trunk Highway	-	9,435	9,435	9,435	9,435	9,435
Highway Users Tax Distribution	-	99	99	99	99	99
Total	-	11,325	11,325	11,325	11,325	11,325
		Biennial Total	22,650		22,650	
2 - Revenues, Transfers In*						
Public Safety Dept						
General Fund	-	-	-	-	-	-
Trunk Highway	-	-	-	-	-	-
Highway Users Tax Distribution	-	-	-	-	-	-
Total	-	-	-	-	-	-
		Biennial Total	-		-	

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 Agency: **Peace Officers Board (POST)**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Maren Bardal **Date:** 2/15/2021 1:17:29 PM
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State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This bill requires that each licensed peace officer shall obtain a policy of professional liability insurance coverage in an amount no less than current limits for municipalities as provided in section 466.04. Each licensed peace officer must provide proof of such insurance and must maintain continuous coverage throughout the course of employment as a peace officer. The insurance shall cover claims against the officer for acts or omissions during paid on-duty time or paid off-duty work approved by the employing agency. The employing agency may reimburse the officer for the base rate of the policy required by this subdivision, but may not cover any additional premium costs due to personal or claims history.

Section 3 of the bill amends 626.843 by changing subdivision 1 to require the board to adopt a rule with respect to professional liability insurance as required for licensed peace officers in accordance with section 626.845, subdivision 3.

Assumptions

This bill impacts local and individual officer costs and has no impact on POST Board costs or operations. The adoption of the rule as required in section 3 of the bill would be included in general rulemaking by the board and absorbed in those costs.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

Local Fiscal Impact

This bill allows the employing agency to reimburse the officer for the base rate of the policy required by this subdivision, but may not cover any additional premium costs due to personal or claims history. Local agencies do not pay for individual policies currently.

References/Sources

NOTE: This is an earlier version of the fiscal note for SF694-0.
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 Agency: **Public Safety Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

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General Fund	-	1,791	1,791	1,791	1,791	1,791
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Total	-	11,325	11,325	11,325	11,325	11,325
Biennial Total			22,650			22,650

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	-	-
Trunk Highway	-	-	-	-	-
Highway Users Tax Distribution	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Maren Bardal **Date:** 2/11/2021 5:16:16 PM
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State Cost (Savings) Calculation Details

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		Biennial Total	22,650			22,650
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Trunk Highway	-	9,435	9,435	9,435	9,435	
Highway Users Tax Distribution	-	99	99	99	99	
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		Biennial Total	22,650			22,650
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Trunk Highway	-	-	-	-	-	
Highway Users Tax Distribution	-	-	-	-	-	
Total	-	-	-	-	-	-
		Biennial Total	-			-

Bill Description

Section 1: Requires that any claim based upon an act or omission of a licensed peace officer during paid on-duty time or paid off-duty work approved by the employing agency, unless for an amount larger than the officer's liability insurance limit, is a claim for which the licensed peace officer is liable. The officer's employing agency or any other individual or organization may not assume liability. Also notes that data on settlement of claims covered by the subdivision be public data, except as otherwise provided for by Chapter 13.

Section 2: Excludes peace officers from requisite indemnification by municipalities.

Section 3: Requires the POST Board put rules into place regarding professional liability insurance as required for licensed peace officers under the amended version of Minn. Stat. 626.845, Subd. 3.

Section 4: Amends Minn. Stat. 626.845 to add a section requiring licensed peace officers to hold professional liability insurance that covers claims for acts or omission for those duties noted in section 1 of the bill. Further notes that the employing agency may reimburse the officer for the base rate of the policy, but may not otherwise pay for costs associated with it.

Because the language has no effective date, it is assumed that the language will be effective August 1, 2021.

Assumptions

NOTE: According to the Department of Public Safety's Risk Management, no entity offers these policies. The market for police professional liability insurance is limited and it is difficult to find coverage. Currently, there are a very small number of insurance carriers that either offer or are exploring offering coverage. As such, no peace officer or agency could comply with the proposed law.

The tort cap will not provide protection to the State of Minnesota in the event claims are litigated in federal court.

Agency Wide Assumptions:

- It is assumed that the BCA has 87 licensed peace officers on staff and that this number of peace officers will not change in the coming years. The BCA cannot know when or how this number will change due to new hires, departures, or other changes in staffing.
- The bill requires individual officers to procure their own insurance up to the tort cap of \$500K/\$1.5M
- It is assumed that each peace officer at the BCA will need to carry this insurance coverage.
- The BCA will reimburse its peace officers for the base rate of the policy.
- The market for police professional liability insurance is limited and it is difficult to find coverage. Currently, there are a very small number of insurance carriers that either offer or are exploring offering coverage.
- Currently, in a limited insurance market and based on estimates MMB received, an annual premium for coverage limits between \$25K and \$100K will cost at least \$500 to \$1,000 for individual officers.
- There is an assumed cost of \$1,000 per \$100K limit increments of coverage.
- There are no policy cost increases assumed in calculating costs for FY22 through FY25, however there would likely be increases as this is typical with most insurance policies. The BCA has no way of calculating the costs of these increases.
- Given the tort cap and necessary coverage limitations under the language, it is assumed that each officer will need to spend \$15,000 per annum to reach the tort cap.
- The agency will reimburse for the base rate of the policy.
- There are no policy cost increases assumed in calculating costs for FY22 through FY25, however there would likely be increases as this is typical with most insurance policies.

Expenditure and/or Revenue Formula

BCA:

$$\$15,000 \times 87 = \$1,305,000$$

Each peace officer is required to have a tort cap of \$1,500,000 and costs have been shared that show for every \$1,000 spent, an officer would have \$100,000 in coverage.

$$\$1,500,000 / \$100,000 = \$15,000$$

Therefore, each officer would have to spend \$15,000 to gain the necessary coverage.

As the BCA plans on reimbursing officers for this coverage, and there are 87 officers at the BCA currently, costs would be calculated as follows: $\$15,000 \times 87 = \$1,305,000$

State Patrol:

- The State Patrol anticipates approximately 660 troopers will be required to carry liability insurance.
- Cost of \$1,000 per \$100K limit increments was used for the cost formula.
- A policy providing \$1,500,000 policy will cost \$15K.
- $660 \times \$15,000 = \$9,900,000$ cost to the agency for reimbursement of the base rate of the individual policy.

Alcohol & Gambling Enforcement:

Alcohol and Gambling Enforcement anticipates 8 special agents will be required to carry liability insurance.

- Cost of \$1,000 per \$100K limit increments was used for the cost formula.
- A policy providing \$1,500,000 policy will cost \$15K.
- $8 \times \$15,000 = \$120,000$ cost to the agency for reimbursement of the base rate of the individual policy.

Please note: FY21 is not prorated due to the uncertainty of insurance rates.

Long-Term Fiscal Considerations

BCA :

This cost will be ongoing and will change depending on the number of peace officers on staff as well as the insurance policy costs over time.

State Patrol:

This will be an on-going cost with assumed increases in cost as policy costs rise.

Alcohol & Gambling Enforcement:

There are no policy cost increases assumed in calculating costs for FY22 through FY25, however there would likely be increases as this is typical with most insurance policies

Local Fiscal Impact

DPS cannot know the impacts per each local agency, but can assume that if reimbursed the costs would be approximately the same for each peace officer per agency, local or otherwise. However, it will be up to each department (local/county) to determine if they will reimburse their officers for the cost of the base policy.

References/Sources

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