

BILL ANALYSIS

C.S.H.B. 2524
By: Coleman
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties explain that a county or district attorney is required to provide a written opinion or written advice on request of certain county or precinct officials relating to the official's duties and assert that a county auditor should be considered a county official for this purpose. These parties also contend that a county auditor's duties sometimes expose the individual to a higher risk of legal action over the interpretation of state law and other matters and that these officials should be provided legal defense under certain circumstances. C.S.H.B. 2524 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2524 amends the Government Code to change the conditions under which a district or county attorney is required to respond to the request of a county or precinct official for a written opinion or written advice relating to the official duties of that official by setting a deadline of not later than the 30th day after the date a written request is submitted by which the district or county attorney is required to grant the request and provide the opinion or advice and by providing the option for the district or county attorney, by that deadline, to deny the request in writing or to provide written notification to the requestor that the opinion or advice cannot be provided by the deadline and specify a reasonable date by which the opinion or advice will be provided. The bill specifies that a request may include a request for interpretation of a statute relating to the official duties of the official. The bill entitles a county or precinct official that is sued for an action arising from the performance of a public duty as a result of following an opinion or advice to representation under Local Government Code provisions providing for the legal defense of a county official or employee that is sued. The bill establishes that a county or precinct official who requests and obtains legal advice and fails to implement the advice is not entitled to such representation in an action arising from that failure and requires the official to personally reimburse the county for any damages incurred by the county as a result of that failure. The bill specifies that "county official" includes a county auditor.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2524 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 41.007, Government Code, is amended to read as follows:

Sec. 41.007. OPINIONS TO COUNTY AND PRECINCT OFFICIALS. (a) A ~~[district or county attorney, on request, shall give to a]~~ county or precinct official may request in writing [of his district or county] a written opinion or written advice relating to the official duties of that official, including the interpretation of a statute relating to the official duties of the official, from the district or county attorney.

(b) Not later than the 30th day after the date a written request is submitted under Subsection (a), the district or county attorney shall:

- (1) grant the request and provide the written opinion or written advice; or
- (2) deny the request in writing.

(c) If a county or precinct official is sued for an action arising from the performance of a public duty as a result of following an opinion or the advice provided under Subsection (a), the county or precinct official is entitled to representation as provided by Section 157.901, Local Government Code.

(d) In this section, "county official" includes a county auditor.

SECTION 2. The changes in law made by

HOUSE COMMITTEE SUBSTITUTE

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Sec. 41.007. OPINIONS TO COUNTY AND PRECINCT OFFICIALS. (a) A ~~[district or county attorney, on request, shall give to a]~~ county or precinct official may request in writing [of his district or county] a written opinion or written advice relating to the official duties of that official, including the interpretation of a statute relating to the official duties of the official, from the district or county attorney.

(b) Not later than the 30th day after the date a written request is submitted under Subsection (a), the district or county attorney shall:

- (1) grant the request and provide the written opinion or written advice;
- (2) deny the request in writing; or
- (3) provide written notification to the requestor that the opinion or written advice cannot be provided by the date prescribed by this subsection and specify a date by which the opinion or advice will be provided, which must be reasonable.

(c) If a county or precinct official is sued for an action arising from the performance of a public duty as a result of following an opinion or the advice provided under Subsection (a), the county or precinct official is entitled to representation as provided by Section 157.901, Local Government Code.

(d) If a county or precinct official requests and obtains legal advice under this section and fails to implement the advice, the official is not entitled to representation as provided by Section 157.901, Local Government Code, in an action arising from that failure and shall personally reimburse the county for any damages incurred by the county as a result of that failure.

(e) In this section, "county official" includes a county auditor.

SECTION 2. Same as introduced version.

Section 41.007, Government Code, as amended by this Act, apply only to a request submitted for a written opinion or written advice on or after the effective date of this Act. A request submitted before the effective date of this Act is governed by the law in effect when the request was submitted, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 3. Same as introduced version.