

SUBJECT: Paying for legal defense of county employees

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 6 ayes — R. Lewis, Chisum, G. Lewis, Longoria, Muñoz, Wohlgemuth  
0 nays  
2 present, not voting — Hamric, Kamel  
1 absent — Gutierrez

SENATE VOTE: On final passage, May 5 — voice vote

WITNESSES: No public hearing

BACKGROUND: A county official or employee sued by any entity, other than the county, for an action arising from the performance of a public duty is entitled to be represented by the district attorney of the district in which the county is located, the county attorney, or both. An official or employee accused of a criminal act is entitled to have the county commissioners court employ and pay private counsel if additional counsel is needed for defense.

Last year a Harris County employee, Capt. Robert C. Clowers, prevailed in a civil suit brought against him by another county employee for alleged sexual harassment. Capt. Clowers sought reimbursement from the county for his expense in hiring private counsel after the county attorney who was originally defending him offered to settle the case.

DIGEST: CSSB 1624 would allow the Harris County commissioners court to pay for the private counsel retained by a county official or employee if the suit involved the official's or employee's duties, if the official or employee was not being sued by Harris County, if the matter of the suit did not relate to the removal of the official or employee and if the commissioner court by unanimous vote agreed to the payment.

If the official or employee retained private counsel but failed to request county assistance to pay for the counsel before the trial, the commissioners

court could pay the private counsel if the official or employee prevailed in the action and the commissioners court by unanimous vote determined that retained counsel was necessary and proper.

This bill would expire August 31, 1997, and would only apply to the payment of legal fees for a lawsuit that is finally decided between January 1, 1994, and December 1, 1994.

**NOTES:**

The committee substitute added to the Senate-passed version a provision that would prohibit the Harris County commissioners court from paying the private counsel for matters relating to the removal of the official or employee and allow payment only if the commissioners court by unanimous vote agreed to the payment. The substitute would make the bill apply only to lawsuits decided before December 1, 1994.