

SUBJECT: Allowing district judges to appoint probation department fiscal officers

COMMITTEE: Corrections — favorable, with amendment

VOTE: 8 ayes — Haggerty, Farrar, Allen, Ellis, Gray, Hopson, Isett, Ritter

0 nays

1 absent — Hodge

SENATE VOTE: On final passage, February 20 — voice vote

WITNESSES: For — J.E. (Jed) Davenport, Crockett and Sutton Counties 112th Judicial District CSCD; Robert Sherrill, Bastrop County CSCD; Mel Brown, Montgomery County Board of Judges, Montgomery County CSCD, and Montgomery County Auditor's Office; Larry D. McKinney, Hunt County CSCD; Tammi Byrd, Hunt County Auditor's Office; Roy Drewett, Anderson County CSCD; Joey L. Boswell; Mary Alice Alfred; Mary Wallis; *Registered but did not testify*: Jim Wither; Brenda Marshall; Tex Selvidge; Dale Rush; Guy Elliott; Doug Wright

Against — April Bacon, Travis County Auditor's Office and Texas Association of County Auditors; John Reynolds, Texas Association of County Auditors

On — Bonita White, Texas Department of Criminal Justice

DIGEST: SB 288, as amended, would authorize a district judge or judges to appoint a fiscal officer, other than the county auditor, for local community supervision and corrections (probation) departments (CSCDs).

The fiscal officer would be responsible for managing and protecting funds, fees, and other monies to the same extent that a county auditor manages county funds and other local entities' funds, ensuring that financial transactions of the department were lawful and allowable, and prescribing accounting procedures for the departments.

A person could be appointed as fiscal officer only after a judge investigated the person and found that the person was of unquestionably good moral character and intelligence and a financial officer with at least two years' experience in auditing and accounting.

Within 20 days of being appointed a fiscal officer and before beginning employment, the officer would have to take an oath that the officer met the qualifications in SB 288 and would have to execute a surety bond of at least \$5,000 that was approved by and payable to the district judge or judges and was conditioned on the faithful performance of the officer's duties.

The district judge would have to set the fiscal officer's annual compensation, and the CSCD would have to pay all costs relating to the officer's functions.

The bill's provisions would not diminish the rights of county auditors, the comptroller, or the Community Justice Assistance Division of the Texas Department of Criminal Justice (TDCJ) to examine and audit accounts, records, receipts, and expenditures of CSCDs.

This bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

SB 288 would clear up confusion about whether local CSCDs can hire financial officers instead of using county auditors. Confusion arose after interpretations of current law by a state agency found that the use of financial officers was permitted, apparently in conflict with former Attorney General Dan Morales' Opinion DM-257, which addressed the responsibilities of county auditors.

SB 288 would clear up this confusion by specifically allowing CSCDs to hire financial officers and by establishing their areas of responsibilities. The bill would ensure that the officers were qualified and competent. It specifically would give county auditors, the comptroller, and TDCJ the right to audit and oversee the CSCDs.

SB 288 would not mandate the use of financial officers, but would allow the 27 CSCDs that now use financial officers to continue to do so. Decisions about using financial officers or county auditors would continue to be made by district judges, who are responsible for the CSCD employees who work

for judicial districts, not counties, and for the agencies' budgets, which are about two-thirds state funds and one-third court-ordered offender fees.

**OPPONENTS
SAY:**

SB 288 would add to the confusion about the responsibilities of county auditors and financial officers. Local Government Code, sec. 140.003 details purchasing and financial accounting requirements for probation departments, including giving county auditors the same authority to audit the funds of local entities as they have to audit county funds. SB 288 would do nothing to clear up confusion about the authority over CSCD funds and could exacerbate the current conflict over this authority.

NOTES:

The committee amendment would specify that the fiscal officer would have to be a financial officer, rather than a competent accountant, with experience in auditing and accounting.