

SUBJECT: Allowing certain attorneys for counties to request AG opinions

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Leach, Davis, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith

0 nays

1 absent — Dutton

WITNESSES: For — Nathan Bratton, Webb County; (*Registered, but did not testify:* Jim Allison, County Judges and Commissioners Association of Texas; Thamara Narvaez, Harris County Commissioners Court; Julie Wheeler, Travis County Commissioners Court; Leroy Medford, Webb County)

Against — None

BACKGROUND: Government Code sec. 402.043 requires the attorney general to advise a Texas district or county attorney, on the attorney's request, in the prosecution or defense of an action in which the state is interested before a district or inferior court if the requesting attorney has investigated the question involved and submitted a brief to the attorney general.

DIGEST: HB 4422 would add the head of a county's civil legal department to the list of attorneys the attorney general had to advise in certain matters if requested to do so under Government Code sec. 402.043.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS SAY: HB 4422 would afford equal access to the guidance of the attorney general's office in certain matters to counties with civil legal departments, such as Webb County. A county's civil legal department may employ in-house counsel for civil matters that do not fall under the purview of the

district or county attorney. The bill would allow the heads of such departments to seek an attorney general opinion on issues where the state was an interested party in the same way a district or county attorney could.

CRITICS
SAY:

HB 4422 should apply specifically to Webb County to avoid allowing non-elected county employees across the state to request an opinion from the attorney general. Allowing all county civil legal departments to request attorney general opinions could lead to a backlog at the attorney general's office and set a precedent by allowing employees to bypass elected officials.