

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1099
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Finance
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Committee Report (Substituted)

DIGEST

Currently, Texas law (the Professional Prosecutors Act, 1979) provides three of the four classifications of state prosecutors the opportunity to receive increased state funding for salaries to help undergird prosecutorial endeavors. The three classes that are eligible by the Act are district attorneys, criminal district attorneys, and county attorneys with felony responsibility. County attorneys, whose responsibilities at the time of the passage of the Act were more local in scope, were not given access to the Act.

In recent years the role of the county attorney has expanded considerably. Mandated duties in the areas of juvenile criminal law enforcement, mental health, chemical abuse, family violence, and victim assistance in "entry-level" crimes have all fallen within the county attorney's purview. Also during this period better DWI enforcement has increased caseloads, gang activity has been on the rise, and the entire gambling chapter of the Penal Code has been relegated to misdemeanor status. The development of misdemeanor punishments in environmental, health and safety, agricultural, and wildlife statutes have also increased the pressure upon county attorneys to provide adequate representation in these areas.

C.S.S.B. 1099 would permit county attorneys to receive a salary supplement from the state over and above their county salary in much the same way as the other three classes of prosecutors now receive county supplemental pay over and above their state pay.

PURPOSE

As proposed, C.S.S.B. 1099 provides that each county prosecutor is entitled to receive a salary supplement from the state.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 46, Government Code, as follows:

CHAPTER 46. PROFESSIONAL PROSECUTORS

Sec. 46.001. New heading: DEFINITIONS. Defines "prosecutor" and "benchmark salary," and redefines "state prosecutor."

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. Provides that this chapter applies to all county prosecutors and to certain state prosecutors.

Sec. 46.003. New heading: COMPENSATION OF STATE PROSECUTORS. Provides that each state prosecutor, rather than each prosecutor, is entitled to receive from the state compensation equal to the compensation that is provided for a district judge in the General Appropriations Act. Makes conforming changes.

Sec. 46.0031. COMPENSATION OF COUNTY PROSECUTORS. Provides that except

as provided by Subsection (b), each county having a county prosecutor is entitled to receive from the state supplemental compensation for use by the county prosecutor equal to the amount that is one-half of the benchmark salary divided by the total number of counties served by the prosecutor with general felony responsibility in that jurisdiction, unless that formula would result in an amount less than one-sixth of the benchmark salary, in which case the county prosecutor is entitled to receive one-sixth of the benchmark salary. Provides that a county with no county prosecutor is not entitled to receive the salary supplement funds provided by this section. Sets forth provisions applicable if more than one prosecutor with general felony responsibility serves a county. Sets forth provisions applicable if the receipt of compensation under this section causes the gross salary of a county prosecutor to exceed the benchmark salary, or if any amount of the compensation is waived by the prosecutor.

Sec. 46.004. EXPENSES. Makes conforming changes.

Sec. 46.005. LIMITATIONS ON LAW PRACTICE. Provides that this section applies to a county prosecutor and any assistant of a prosecutor under certain conditions. Deletes text regarding the salary of an assistant paid by the state to the prosecutor under this chapter. Provides that this section does not apply to a county prosecutor under certain conditions. Requires an amount waived under this subsection to be used for expenses of the county prosecutor's office. Provides that this section does not apply to a county prosecutor under certain conditions. Makes conforming changes.

Sec. 46.006. PURPOSE; DUTY OF COUNTY. Sets forth the purpose of this chapter. Prohibits the commissioners court in each county that has a prosecutor subject to this chapter from reducing the county funds provided for the salary or office of the prosecutor as a result of the funds provided by this chapter, rather than requiring the commissioners court to provide the funds necessary to carry out the purpose of this chapter and to continue to provide funds for the office of the prosecutor in an amount that is equal to or greater than the amount of funds provided for the office by the county on August 27, 1979. Deletes text that provides that this subsection does not apply to local supplementation to the salary of the prosecutor.

Sec. 46.007. INELIGIBILITY FOR CERTAIN OTHER STATE FUNDS. Provides that Chapter 41C does not apply to a county if the county is served by a state prosecutor who serves in a district or county, rather than prosecuting attorney, listed in Section 46.002..

SECTION 2. Amends Section 152.032(a), Local Government Code, to prohibit the amount of the compensation and allowances of a county auditor from exceeding the amount of the compensation and allowances received from all county sources by the highest paid elected county officer, other than a judge of a statutory county court, whose salary and allowances are set by the commissioners court.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Proposed Section 46.0031, Government Code, to provide that each county having a prosecutor is entitled to receive from the state supplemental compensation for use by the county prosecutor. Sets forth provisions applicable if more than one prosecutor, rather than one state prosecutor, with a general felony responsibility serves a county. Makes a conforming change.

Amends proposed Section 46.005, Government Code, to provide that this section does not apply to a county prosecutor who files with the county auditor an annual written waiver of the amount of compensation that exceeds 80 percent, rather than the amount of compensation

that is equal to or exceeds 80 percent, of the benchmark salary.