

## **BILL ANALYSIS**

Senate Research Center

H.B. 804  
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Finance  
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Engrossed

### **DIGEST**

Currently, the role of the county attorney expands beyond the scope provided by past legislation. In 1979, the Professional Prosecutors Act (Act) offered some state prosecutors the opportunity to receive state funding for salaries to help support prosecutorial endeavors. Staff supplements were also made available. County attorneys were not included within the Act, although the attorneys have encumbered extensive mandated duties in juvenile crime, mental health, chemical abuse, family law, and victim assistance. Salary supplements may encourage an improved quality of state representation by filling vacant posts and maintaining qualified candidates. H.B. 804 would make county attorneys receive a salary supplement from the state, in the same manner as district attorneys, criminal district attorneys, and county attorneys with felony responsibilities.

### **PURPOSE**

As proposed, H.B. 804 provides a supplement to salaries of certain prosecutors.

### **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 “county prosecutor” and “benchmark salary.” Redefines “state prosecutor.”

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. Provides that this chapter applies to all county prosecutors and certain state prosecutors, rather than apply to only certain prosecutors.

Sec. 46.003. New heading: COMPENSATION OF STATE PROSECUTORS. Makes conforming changes.

Sec. 46.0031. COMPENSATION OF COUNTY PROSECUTORS. Entitles each county that has a county prosecutor to receive a state supplemental compensation payment equal to one-half of the benchmark salary divided by the total number of counties served by the state prosecutor; unless the state supplemental compensation results in less than one-sixth of the benchmark salary, in which case the prosecutor receives one-sixth of the benchmark, or the county has no prosecutor, in which case no supplements funds are provided. Sets forth computation for the supplemental funds for a county with more than one state prosecutor who serves the county. Requires an excess or waived funds to be used for expenses of the county prosecutor’s office. Requires the comptroller to pay annually to the salary fund of each county the fund entitled under this section.

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 prosecutor if they receive a certain percentage of the benchmark salary. Provides that this section does not apply to a county prosecutor who files with

the county auditor an annual waiver against the benchmark requirement. Requires the waived amount to be used for expenses of the county prosecutor's office. Provides that this section does not apply to a county prosecutor who was paid in excess of the benchmark by a certain date. Makes conforming changes.

Sec. 46.006. PURPOSE; DUTY OF COUNTY. Provides that it is the purpose of this chapter to increase the funds available for use in prosecution at both the felony and misdemeanor levels. Prohibits a commissioners court with a prosecutor subject to this chapter from reducing the county funds provided for the salary or office of the prosecutor as a result of funds provided by this chapter. Deletes a requirement that the commissioners court provide certain funds to 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 served by a prosecuting attorney, listed in Section 46.002.

SECTION 2. Amends Section 45.280, Government Code, to require a county attorney in Oldham County to represent the state in all matters pending before the district court in Oldham County. Entitles the county attorney in Oldham County to compensation provided by general law relating to the attorney's salary. Requires the county to pay \$28,500 of the total salary of the attorney, and to pay the remainder of the salary. Entitles the attorney to receive from the state the amount provided in the General Appropriations Act for the payment of staff salaries and office expenses in single-county districts. Deletes language entitling Oldham County to receive certain state funds.

SECTION 3. Effective date: September 1, 1999.

SECTION 4. Emergency clause.