

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 647
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Finance
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Committee Report (Substituted)

DIGEST

The 75th Legislature gave county attorneys additional responsibilities in the representation of the Department of Protective and Regulatory Services and the Department of Human Services. In 1979, the Professional Prosecutors Act increased state funding for salaries for district attorneys, criminal district attorneys, and county attorneys with felony responsibility to help with prosecutorial endeavors. County attorneys, however, had more local responsibilities then and were not given access to the Act. In recent years, the role of county attorneys has expanded from mandated duties in the areas of juvenile criminal law enforcement, mental health, chemical abuse, family violence, victim assistance in "entry-level" crimes, driving-while-intoxicated cases, gang activity, and the entire gambling chapter of the Penal Code. The development of misdemeanor punishments in environmental, health and safety, agricultural, and wildlife statutes also increased the pressure on county attorneys to provide adequate representation. C.S.S.B. 647 would entitle county prosecutors to receive from the state supplemental salary compensation to be paid by the county, and would provide incentives to county attorneys to cease their private practice.

PURPOSE

As proposed, C.S.S.B. 647 increases salaries and fees for services 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," "benchmark salary," and "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. Entitles each state prosecutor to receive compensation equal to a district judge. Makes conforming changes.

Sec. 46.0031. COMPENSATION OF COUNTY PROSECUTORS. Provides that each county prosecutor is entitled to supplemental salary compensation to be paid by the county to the county prosecutor in an amount equal to the amount that is one-half of the benchmark salary divided by the total number of counties served by the state prosecutor, 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, except as provided by Subsection (b). Provides that a county with no county prosecutor is not entitled to receive the salary supplemental funds provided by this section. Sets forth the computation of the supplemental salary for a county with more than one state prosecutor. Requires the excess or waived amount to be used for expenses of the county prosecutor's office, 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. Requires the comptroller, at least annually, to pay to the salary fund of each county that is entitled to receive funds under this section an amount

authorized under this section to supplement the salary of the county 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 if, from all state and county funds received, the county prosecutor or assistant receives a salary that is equal to or more than 80 percent of the benchmark salary, rather than paid by the state to the prosecutor under this chapter. Provides that this section does not apply to a county prosecutor who files with county auditor an annual written waiver of the amount of compensation that is equal to or exceeds 80 percent of the benchmark salary. 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 who, before September 1, 1999, was paid in excess of the benchmark salary by the county in which the prosecutor serves. Makes conforming changes.

Sec. 46.006. PURPOSE; DUTY OF COUNTY. Provides that it is the purpose of this chapter to increase the effectiveness of law enforcement in this state and to increase the funds available for use in prosecution at both the felony and misdemeanor levels. 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. Deletes text requiring the court to provide funds, in a certain amount, by August 27, 1979. Deletes text regarding local supplementation of the prosecutor's salary.

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, 1999.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 46.0031, Government Code, to provide that each county that has a county prosecutor is entitled to receive from the state supplemental salary compensation to be paid by the county to the county prosecutor in an amount equal to the amount that is one-half of the benchmark salary divided by the total number of counties served by the state prosecutor, 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, except as provided by Subsection (b). Sets forth the computation of the supplemental salary for a county with more than one state prosecutor. Requires the comptroller, at least annually, to pay to the salary fund of each county that is entitled to receive funds under this section an amount authorized under this section to supplement the salary of the county prosecutor. Deletes text regarding a county prosecutor receiving one-sixth of the benchmark salary, if more than one state prosecutor serves the county.

Amends Section 46.005, Government Code, to provide that this section does not apply to a county prosecutor who, before September 1, 1999, was paid in excess of the benchmark salary by the county in which the prosecutor serves.