

BILL ANALYSIS

Senate Research Center
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S.B. 630
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Travis County district attorney is appropriated state funds to investigate and prosecute public integrity issues including ethics of elected officials, motor vehicle fuel tax fraud, and insurance fraud. While other district attorneys have jurisdiction over these crimes, only the Travis County district attorney receives state funding toward their prosecution. Recent events have generated controversy over how such crimes are handled by local district attorneys and concern about the impact of such crimes on the state.

As proposed, S.B. 630 creates a public integrity unit in the office of the attorney general. This bill requires the attorney general's office to assert the right to prosecute crimes including the integrity of an elected official's ethics, motor vehicle fuel tax fraud, and insurance fraud, in writing to the appropriate prosecuting attorney. This bill maintains the authority of a local prosecuting attorney to investigate and prosecute these charges if the attorney general does not do so.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 402, Government Code, by adding Subchapter D, as follows:

SUBCHAPTER D. PUBLIC INTEGRITY UNIT

Sec. 402.101. DEFINITIONS. Defines "offense," "prosecute," and "prosecuting attorney."

Sec. 402.102. OFFENSES AGAINST PUBLIC ADMINISTRATION. Sets forth the list of actions which are considered offenses against public administration.

Sec. 402.103. OFFENSES INVOLVING INSURANCE FRAUD. Provides that offenses listed under Chapter 35 (Insurance Fraud), or fraudulent insurance acts as defined by Section 701.001, Insurance Code, including for either an offense that involves workers' compensation insurance under Title 5 (Workers' Compensation), Labor Code, are offenses involving insurance fraud.

Sec. 402.104. PUBLIC INTEGRITY UNITY. Provides that the public integrity unit (unit) is in the office of the attorney general.

Sec. 402.105. PROSECUTION BY PUBLIC INTEGRITY UNIT. Authorizes the unit to prosecute a person for an offense against public administration or an offense involving insurance fraud in any district or county court of appropriate jurisdiction and venue. Requires the unit to assert the right to prosecute (assert) under this section in writing to the appropriate prosecuting attorney. Provides that the unit has all the powers of the prosecuting attorney, including the right to represent the state before a grand jury, and that the prosecuting attorney is required to assist the unit on request but is prohibited from prosecuting the same person for the same act, upon the unit's assertion.

Sec. 402.106. COOPERATION OF STATE AGENCIES AND LOCAL LAW ENFORCEMENT AGENCIES. Requires a state agency or local law enforcement agency to cooperate with the unit to the extent allowed by law by providing information requested by the unit as necessary to carry out the purposes of this subchapter. Provides that information disclosed under this section is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

Sec. 402.107. VENUE. Provides that the venue for prosecution by the unit is the defendant's county of residence, if the defendant is a natural person, notwithstanding Chapter 13 (Venue), Code of Criminal Procedures, or any other law.

SECTION 2. Amends Sections 301.027(b) and (c), Government Code, as follows:

(b) Requires the president of the senate or the speaker to certify a report or statement of facts regarding a person's action or inaction that is considered contempt of legislature, while the legislature is not in session, to the unit, rather than the Travis County district attorney (district attorney), under the seal of the appropriate house.

(c) Requires the unit, rather than the district attorney, to bring the matter before the grand jury for action. Requires the unit to prosecute the indictment returned by the grand jury.

SECTION 3. Amends Section 402.009, Government Code, by authorizing the attorney general to employ and commission peace officers for the purpose of investigating offenses against public administration and offenses involving insurance fraud that are open to prosecution under Subchapter D (Public Integrity Unit), Chapter 402, Government Code.

SECTION 4. Amends Section 35.04, Penal Code, as follows:

Sec. 35.04. JURISDICTION OF ATTORNEY GENERAL. (a) Authorizes the unit to prosecute an offense under Section 35.02 (Insurance Fraud), Penal Code.

(b) Authorizes the attorney general, in case the unit does not assert its right to prosecute, to offer to an attorney representing the state in the prosecution of the offense the investigative, technical, and litigation assistance of the attorney general's office, or to assist in the prosecution of the offense on the request of the attorney representing the state. Makes conforming changes.

SECTION 5. (a) Requires the attorney general to establish the unit no later than March 1, 2008.

(b) Makes application of Subchapter D (Public Integrity Unit), Chapter 402, Government Code, to offenses against public administration or offenses involving insurance fraud prospective to April 1, 2008.

(c) Makes application of this Act of the prosecution of an offense prospective to April 1, 2008, except that a prosecuting attorney, on the request of the attorney general, is able to permit the unit to assume the prosecution of that offense.

SECTION 6. Effective date: January 1, 2008, contingent upon approval by the voters of the constitutional amendment permitting the attorney general to prosecute offenses against public administration, including ethics offenses, and offenses involving insurance fraud.