

BILL ANALYSIS

Senate Research Center
84R1386 SCL-F

S.B. 469
By: Rodríguez
Intergovernmental Relations
2/27/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, under state law county auditors are tasked with ensuring strict financial compliance. The primary tool for enforcement is the prohibition against payment of a claim that the auditor has determined was not incurred in compliance with constitutional or statutory law. This role places the auditor at greater legal risk for internal suit.

The duties of the office also put the county auditor at risk from an internal suit over issues involving interpretation of state law. Sometimes the conflict is between two other officials, but if the conflict has a financial implication, such as budget or salary, the auditor can be sued for the position he or she takes on the financial aspect. The county auditor is not always provided with legal counsel to present the auditor's position to the commissioners court.

S.B. 469 seeks to ensure greater collaboration locally and allow county auditors to access legal representation for issues arising in the performance of official duties.

As proposed, S.B. 469 amends current law relating to legal services provided by a district or county attorney to county and precinct officials.

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 Section 41.007, Government Code, as follows:

Sec. 41.007. OPINIONS TO COUNTY AND PRECINCT OFFICIALS. (a) Creates this subsection from existing text. Authorizes a county or precinct official to request in writing a written opinion or written advice relating to the official duties of that official, including the interpretation of a statute relating to the official duties of the official, from the district or county attorney. Deletes existing text requiring a district or county attorney, on request, to give to a county or precinct official of his district or county a written opinion or written advice relating to the official duties of that official.

(b) Requires the district or county attorney to grant the request and provide the written opinion or written advice or deny the request in writing not later than the 30th day after the date a written request is submitted under Subsection (a).

(c) Entitles a county or precinct official to representation as provided by Section 157.901 (Legal Defense of Employees), Local Government Code, if the county or precinct official is sued for an action arising from the performance of a public duty as a result of following an opinion or the advice provided under Subsection (a).

(d) Provides that, in this section, "county official" includes a county auditor.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2015.