

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

Revision 1

April 19, 2007

TO: Honorable Jerry Madden, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB427 by Madden (Relating to the prosecution of certain crimes occurring in the Texas Department of Criminal Justice or Texas Youth Commission.) ,**Committee Report 1st House, Substituted**

The probable impact of the bill cannot be determined due to the unavailability of data or information related to the operations and duties of the newly created special prosecution unit.

The bill would amend Article 104.003, Code of Criminal Procedure, to require the Department of Criminal Justice (TDCJ) and the Youth Commission (TYC) to reimburse certain expenses incurred by counties when prosecuting criminal offenses committed on property owned or operated by TDCJ or TYC, or committed by or against a person in the custody of TDCJ or TYC while the person is performing a duty away from TDCJ or TYC property. The reimbursable expenses include salaries and expenses of interpreters, travel expenses for witnesses, food, lodging, and compensation for jurors, transcripts for appeal, inquest costs if a death occurs, travel expenses for prosecutor's staff, court reporter's fees, and the cost of special security officers.

The bill would add Subchapter E to Chapter 41, Government Code, creating an independent special prosecution unit (SPU) to prosecute offenses described above. A board of directors comprised of each prosecuting attorney from a county where a TDCJ or TYC facility is owned, operated, or under contract would govern the SPU. The board of directors would be governed by an executive board comprised of eleven members elected by the board of directors. The executive board would elect from its eleven members a presiding officer and an assistant presiding officer to serve one-year terms. Members of the board of directors or the executive board would not be compensated for their service, but would be allowed to receive reimbursement for necessary expenses incurred in the commission of their duties. The board of directors would employ a chief of the SPU and additional personnel to accomplish the SPU's purpose, and would determine the compensation of SPU employees. The executive board would elect a counselor from among its membership to coordinate prosecution issues, monitor each case that concerns TYC and work with Legislative Budget Board criminal justice analysts and other persons involving offenses described above.

Section 493.026 would be added to the Government Code to require the TDCJ Inspector General to submit a quarterly report to the SPU board of directors regarding any alleged criminal offense that occurred at TDCJ.

Section 61.098 would be added to the Human Resources Code to allow a district or county attorney to request that the SPU established under Subchapter E, Section 41, Government Code, prosecute an offense described in Section 104.003, Government Code. The TYC Inspector General would submit a quarterly report to the board of directors regarding any alleged criminal offense that occurred at TYC. The SPU board of directors would be authorized to direct the TYC Inspector General to notify the foreman of a grand jury if the Inspector General receives credible evidence that illegal or improper conduct of TYC or contract employees that jeopardizes the health, safety, and welfare of youth in TYC custody, including the alleged physical or sexual abuse of youth in TYC custody, has occurred. The bill would take effect immediately if passed by two-thirds of each house, or on September 1, 2007 if it does not receive the necessary vote.

It is assumed that the special prosecution unit described in Subchapter E, Section 41.301, Government Code, would replace the existing Walker County Special Prosecution Unit currently funded through the Judiciary Section of the Comptroller of Public Accounts, as their purposes are similar. The bill does not specify where the newly created SPU would be housed, if there would be one centrally located office or several regional offices, or how many FTEs would be necessary to implement the provisions of the bill. Appropriations would be necessary for operating expenses, salaries and benefits, staff travel costs, equipment, technology costs, and expenses for the board of directors, which includes all prosecuting attorneys in any county where a TDCJ or TYC facility is owned, operated, or under contract. Appropriations for reimbursement of eligible costs to counties prosecuting the offenses described in Section 104.003, Government Code would need to be considered.

TDCJ, TYC and the Office of Court Administration anticipate no fiscal impact from the passage of the bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 694 Youth Commission, 212 Office of Court Administration, Texas Judicial Council, 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG, AI