BILL ANALYSIS

Senate Research Center   S.B. 1243
                                                                                                              By: West
                                                                                              Intergovernmental Relations
                                                                                                            7/28/2011
                                                                                                             Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Before assuming their duties of office, certain county and district officers must execute a surety bond. Following the recent general elections, a number of county officers and officers-elect had difficulty in obtaining the requisite bond. It has been reported that private surety companies have refused to issue or extend the necessary bond, either without explanation, or for reasons unrelated to an individual's ability to perform the duties of the office. An officer's difficulty obtaining a surety bond or equivalent coverage in a timely manner threatens the uninterrupted performance of the duties of office to which the individual was elected.

S.B. 1243 amends current law relating to the use of a county risk management pool by certain county and district officers instead of the execution of bonds and to the authority of certain counties and intergovernmental pools to require reimbursement for punitive damage coverage.

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 Subchapter B, Chapter 81, Local Government Code, by adding Section 81.025, as follows:

> Sec. 81.025. COUNTY RISK MANAGEMENT POOL COVERAGE INSTEAD OF BONDS. (a) Authorizes the commissioners court, instead of a bond required by law to be executed by a county officer before taking office, to authorize the officer to obtain coverage from a county government risk management pool created under Chapter 119 (County Government Liability Insurance Pool).

>> (b) Requires that coverage obtained under this section be in an amount that is at least equal to the amount of the bond that would otherwise be required by law, satisfy all other conditions applicable to the bond, and be approved, recorded, and filed in the manner required by law for the bond.

>> (c) Provides that an officer who obtains coverage instead of a bond under this section satisfies the bond requirements that are imposed on the individual by other law.

>> (d) Provides that to the extent of a conflict between this section and other law, this section controls.

>> (e) Provides that this section does not apply to coverage obtained under Section 43.002 or 44.002, Government Code.

SECTION 2. Amends Subchapter Z, Chapter 157, Local Government Code, by adding Section 157.9031, as follows:

Sec. 157.9031. AUTHORITY TO REQUIRE REIMBURSEMENT FOR CERTAIN COVERAGE. Authorizes a self-insuring county or the intergovernmental pool operating under Chapter 119, under policies concerning the provision of coverage adopted by the county's commissioners court or the pool's governing body, to require reimbursement for the provision of punitive damage coverage from a person to whom the county or intergovernmental pool provides coverage.

SECTION 3. Amends Section 43.002, Government Code, as follows:

Sec. 43.002. New heading: BOND; COUNTY RISK MANAGEMENT POOL. (a) Requires a district attorney, before assuming the duties of the office and except as provided by Subsection (c), to give a bond that:

(1) is payable to the governor;

(2) is in the sum of $5,000;

(3) has two or more good and sufficient sureties;

(4) is approved by the district judge; and

(5) is conditioned that the district attorney will, in the manner prescribed by law, faithfully pay over all money that he collects or that comes into his hands for the state or a county.

(b) Requires each district attorney's bond, except as provided by Subsection (c), to be deposited in the office of the comptroller of public accounts.

(c) Authorizes a district attorney, instead of the bond required under Subsection (a), to obtain coverage from a county government risk management pool created under Chapter 119, Local Government Code. Requires that coverage obtained under the pool be in the same amount and satisfy the same bond conditions otherwise required by this section.

SECTION 4. Amends Section 44.002, Government Code, as follows:

Sec. 44.002. New heading: QUALIFICATIONS; BOND; COUNTY RISK MANAGEMENT POOL. (a) Requires a criminal district attorney, except as provided by Subsection (b), to meet the qualifications and give the bond required of a district attorney by the constitution and general law.

(b) Authorizes a criminal district attorney, instead of the bond required under Subsection (a), to obtain coverage from a county government risk management pool created under Chapter 119, Local Government Code. Requires that coverage obtained under the pool be in the same amount and satisfy the same bond conditions otherwise required by this section.

SECTION 5. Effective date: upon passage or September 1, 2011.