LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 13, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

IN RE: **HB1638** by Aliseda (Relating to the disqualification of a district or county attorney who is the subject of a criminal investigation.), **As Engrossed**

> **No significant fiscal implication to the State is anticipated.**

The bill would amend Article 2.08 of the Code of Criminal Procedure to require a judge of a court in which a district or county attorney represents the State to declare the attorney disqualified on a showing that the attorney is the subject of a criminal investigation based on credible evidence of criminal misconduct for an offense that is within the attorney's authority to prosecute. The disqualification applies only to the attorney's access to the criminal investigation and to any prosecution of a criminal charge resulting from the investigation. No significant fiscal impact on the court system is anticipated. The bill would take effect September 1, 2011.

Local Government Impact

The bill would amend Article 2.08 of the Code of Criminal Procedure to disqualify a district or county attorney for the purposes of Article 2.07 if the attorney is the subject of a criminal investigation based on credible evidence of criminal misconduct that is within the attorney's authority to prosecute. Costs could be incurred if it were necessary for a district or county to contract with a non-state attorney or with another commissioners court to appoint an attorney pro tem in accordance with Article 2.07. Costs would only be incurred if a district or county attorney were under criminal investigation and the district or county were unable to appoint a local attorney of the state as attorney pro tem; costs would vary depending on applicability of the bill but are not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council
LBB Staff: JOB, ESi, TB, KKR